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Substantially all the material for this issue of the L. R. B. & M. JOURNAL has come from Texas sources. It presents first a bird's-eye view of the history and development of the State of Texas and the cities of Dallas and Houston. Then follow a number of articles on accounting and taxation which are of particular interest to business men of Texas and to those non-residents who have interests in that state. The concluding article calls attention to the ever increasing importance which the New York Stock Exchange attaches to the audit by independent accountants of the accounts of corporations whose stock is listed on the Exchange.

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L. R. B. & M. JOURNAL

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The Lone Star State

Texas has marched to martial music under the flags of France, Spain, Mexico, the Republic of Texas, the Stars and Bars, and twice under the Stars and Stripes, with the Lone Star ever pointing to the goal of its destiny. It is larger than France, Spain, Germany or the Scandinavian Peninsula. It may, of its own volition and without the consent of Congress, divide into five separate states which, should such right be exercised, might be known as East, North, South and West Texas, and the Panhandle; each of these sections has its own vernacular and, in the order named, one may be quickly allocated to the Sticks, Black Land, Coast, Chaparral or the Plains. Each section thinks itself superior to all others and strives for supremacy, but woe betide the "tenderfoot" who attempts to belittle any part of Grand Old Texas.

Texans extend a warm welcome to the "newcomer", offering every variety of the best climatic conditions suited to young and old, the healthy and the invalid, the sportsman and the hunter, and, in fact, every conceivable whim of the human fancy. Texas abounds in lumber, oil, sulphur, coal, iron, potash, salt, granite, quicksilver and other minerals; cotton, grains, sugar, rice, fruits, flowers and vegetables; cattle, horses, mules, sheep, goats and poultry; also, a variety of wild game, wings, fins and quadrupeds, besides other things too numerous to mention.

The dawn, the sunrise, the sunshine, the sunset, the twilight, the moon and stars of a Texas heaven are not excelled for beauty or the comfort they provide for the heart and soul; the pines, magnolias, jasmines, crepe myrtles, wild grapes and roses diffuse the most delicate perfume without the aid of the chemist; the cotton, grains, grasses and wild flowers blanket the state more artistically than any carpet ever conceived in the mind of the weaver; the plains rise from sea level to over five thousand feet, the hills from small domes to mountains over nine thousand feet; in the hottest summer one does not have to leave the state to find enticing vacation lands with nights requiring blankets and fireplaces; in the coldest weather of the north plains one may travel south into semi-tropical weather abounding in fruits, vegetables and flowers of every kind and variety.

The distance from Texarkana to El Paso is equal to the distance from Texarkana to Chicago; from Texline to Brownsville it is equal to the distance from Texline to Minneapolis; drive your car around the boundaries of Texas and you have traversed the distance across the continent.

The future of Texas is yet in the making; it is an empire flowing with milk and honey, the land of promise, happiness and achievement; it asks not the names of your grandparents, but—who are *you*? Make good and you will find the heart and hospitality of the Texan as big as the state.

The City of Dallas

By the Dallas Chamber of Commerce

Dallas was founded by John Neely Bryan in the year 1841 and incorporated as a city in 1871, at which time it proudly boasted of 5,000 inhabitants. From its incorporation Dallas has forged steadily ahead; for the last ten years it has been the distributing, mercantile and financial center of the Southwest. Where the founder built his first campfire ninety years ago will be found the third largest farm implement district in the world. Less than a stone's throw from this humble camp now tower several magnificent skyscrapers; these commercial edifices were built and are occupied by pioneers

Courtesy Dallas Chamber of Commerce

Dallas in 1887, Main St., looking east. Site of Dallas Office, first pole on left.

who see as far ahead for the Dallas of today as did John Neely Bryan whose primeval view caused him to cease wandering and establish a home. Dallas is also an industrial center of considerable importance.

Dallas is lacking in ancient landmarks; there are no tumbled ruins standing as a memento of the generations past. Its skyline, exhibiting some 140 buildings of skyscraper proportions, is known throughout the nation.

Agriculture was largely responsible for the early development of the city, it being located within the heart of the "Black-land belt", long famous for its fertility; this land has been cultivated for generations with but little attention being given to fertilization until recently.

Instead of the Indian trails and buffalo paths used by its founders, there are now ample railroads, paved highways, bus and air lines; within a few

Courtesy Dallas Chamber of Commerce

Dallas in 1932, Main St., looking east. Dallas Office, second building on the left.

years the canalization of the Trinity River will offer a new outlet to the sea. The present population, including suburban towns, is well over 300,000 happy and contented citizens, all of whom are working for a greater Dallas.

It is a city representative of every section of America, displaying the hos-

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The City of Houston

By the Houston Chamber of Commerce

Houston was founded by John K. and A. C. Allen in August, 1835, being at that time a settlement within the province of Texas under the jurisdiction of Mexico. On April 21, 1836, General Sam Houston, with a small band of loyal patriots, engaged General Santa Anna at San Jacinto, a few miles south of Houston, and wrested victory from Mexico, thereby establishing Texas as an independent republic. The settlement was then officially

Courtesy Houston Chamber of Commerce

Houston in 1885, Main St., looking north. Site of Houston Office, two blocks south. The old Rice Hotel, first building on left.

named Houston, and in December, 1838, it became the first capitol of Texas, the old State House site now being the center of the business district.

The San Jacinto battlefield is not only a State park, but one of the nearby parks of Houston as well; it is a place of much natural beauty, abounding in multi-colored and semi-tropical vegetation and giant live oaks covered with Spanish moss. The residential district of Houston is in keeping with this beautiful background, being enriched with all kinds of semi-tropical plants and shrubbery, together with enticing golf courses, tennis courts, playgrounds and public buildings of such unique architectural beauty as to attract nation-wide attention.

The transformation of Buffalo Bayou into a ship channel, completed in 1919, has made Houston one of the important ports of the world. From a little over one million tons in 1920, the tonnage has increased to over four-

Courtesy Houston Chamber of Commerce

Houston in 1932, Main St., looking north. Houston Office, second building on the left.

teen million in 1932. For the same period cotton shipments have increased from 70,000 bales to over 2,655,000, thereby making Houston the largest spot cotton market in the world. The Houston port ranks first for cotton, third in export tonnage and sixth in total foreign tonnage; it is served by 18 railroads, 72 steamship lines and

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Accounting for Cattle Ranches

By WILLIAM P. PETER

The Cattle Ranch is one of the earliest industries recorded in Holy Writ. Its history is one of promise, romance, finance, profit and loss; it appeals to men, women, poets, bankers and accountants. Its herds supply the world with meat and constitute a fruitful reservoir from which many useful by-products are derived for the welfare of mankind.

The ancient background of the Ranch, or the "Cow Outfit" as it is sometimes termed, was not materially different from those that were first located on the Llano Escatado and in other western States. To obtain a close up of the modern cowman it may not be amiss to look at the pages of history for the purpose of reviewing some of his activities.

The cowman has tamed the wild beast, subdued the savage and converted the arid waste into an agricultural empire. Cautious and careful by nature, he has laid down several excellent rules that the modern accountant might do well to remember. Successful cowmen have graced the chairs of Presidents, Kings and Lords; others have become financial and political leaders with a host of loyal followers; generally, they are the law abiding and substantial citizens of the community.

It is said that "Abraham was very rich in cattle" grazing on the hills and in the valleys of the Jordan, when he entered into a partnership with Lot, the nephew who craved easy money. Abraham was partial to his sheep while Lot extolled the virtue of the bull. Their cowboys and sheep herders began an argument as to who should have prior water rights, but good old Abraham, always generous to a fault and being a man of peace, remained in the hills while Lot, with his cattle and cowboys, possessed the rich plains of the Jordan, moving nearer to Sodom to drink its wines and raise "whoopee" in its dance halls, then as now.

Jacob was born under the star of avarice and quickly began to claim everything movable, both real and personal. He qualified as a "rustler" by hoodwinking father Isaac with a goat skin and then skipped out to hide with Uncle Laban, who taught him a new trick in the art of "shifting" women, but this proved to be one too many for any redblooded cowman. Jacob then decided to teach Laban a lesson in the art of Ring Streak branding, a method that has never been excelled. This "smooth young man," had he moved to Texas before his repentance, might have been an honored guest at a necktie party.

The sweet singer, harpist and poet of Israel, tallied his cattle "upon a thousand hills" where the good Lord "caused the grass to grow". This ranch appears to have been as nearly perfect as any true cowman could desire; it had grass and water in abundance, insuring a good calf crop, and there were no rustlers to change or alter the brands. Job was another fine old cowman, who proudly numbered "one thousand yoke of oxen," at least

Author's Note: Acknowledgment is made to Colonel C. C. Walsh, W. H. Patrick, Esq., T. D. Hobart, Esq., E. B. Spiller, Esq., and *The Cattleman* for authentication of old stories and other courtesies.

three years and over, which, based upon present day percentages, would indicate a cattle herd of some fifty thousand head. These cowmen also had a fair share of trouble.

Unfortunately, the biblical commentators do not dwell upon the more intimate details of the accounting systems then in vogue, but they do tell us of the counts that were made in tens, forties, hundreds and thousands; of the building of corrals, sheds and wells; of the fights between cow punchers and the losses attributable to rustling methods. In the main our early western cowmen appear to have been fairly good bible students, following the traditions of the fathers with the addition of an occasional necktie party for the personal entertainment of rustlers.

Cattle Raising in America

Perhaps the first cowmen to use free pastures in America were the Spaniards and Mexicans who developed the lariat and made free use of the branding iron, not only for original identification but for venting and changing the brands of their neighbors, an art in which they were reputed to have been the past masters. In the United States the branding iron constitutes the cowman's heraldic or legal coat of arms and its misuse has decorated more than one tree, or uplifted wagon tongue, with the human being for an earbob.

The first important cowman of the United States, strangely enough, was our own George Washington, who, from 1760 to 1786 or thereabouts, operated a cattle ranch in the hills of Virginia and the valleys of the Potomac, all of which afforded fine pasture and plenty of water. The brand of this cow outfit was GW but its imprint had no fixed place on the animal, such as is the case in Texas. It seems that the brand GW was used to denote the pasture from which the cattle came; this was not a bad idea since the accountant could then prepare a statement of operations according to specified units. In the year 1888 the famous XIT Ranch began using a numeral on the jaw tor the pasture identification, while another numeral appeared on the shoulder to indicate the year of birth.

Another good thing about George Washington was the manner in which his diary was prepared. He stated the total number of head, the number of each kind and the location of the brand upon the animals that were to be sold or transferred. The following notations from his diary indicate the care with which all transactions were recorded, viz:—"November 1, 1765—Sent one bull, 18 cows and 5 calves to Doeg Run—24 head branded on ye buttock GW: Sent 5 cows and 18 yearlings and calves to the Mill, which with 4 there makes 27 head in all, viz, 5 cows and 22 calves and yearlings branded on right shoulder GW; out of the Frederick cattle made stock in the Neck up to 100 head, branded on right buttock GW; Muddy Hole cattle branded on left shoulder GW."

George Washington was also a careful buyer and shrewd trader, as may be observed from several other notations in his diary. (1) Note this item in 1760: "Went down to Occoquan, by appointment, to look at Colonel Cock's cattle, but Mr. Peake's being from home, I made no agreement for them, not caring to give the price he asked for them," and (2) this item in 1786: "Sent up to Abingdon for a young bull

of extraordinary make for which I have exchanged and given a young heifer of the same age." Unfortunately, some of our present day leaders are not quite so careful.

Beginning of the Texas Cattle Industry

The gentlemen of Virginia, Kentucky and other southern states, considered it both an honor and a privilege to be known as the breeders of fine cattle. The progressive sons of these fine southern gentlemen, sometimes more or less wild, migrated to Texas, fought for its independence and then developed the great cattle industry of the southwest. Their success brought in more Southerners, Yankees, English, Scotch and Irish, some of whom subsequently acquired and still operate the largest ranches in the United States, notably the famous JA, XIT, the King and the Matador; these ranches have been regularly audited by certified or chartered public accountants from forty to fifty-five years, thus establishing some rather modern methods that antedate several well known institutions of the East.

The early and rather unique methods of accounting in the southwest began by using "loose leaves," in the form of leather saddle strings of various widths and lengths, upon which tallies were entered in tens, forties and hundreds, by the simple expedient of tying knots while the cow punchers pursued the fleeting steer or the bleating calf. After the finish of the cut for any particular bunch, the wagon boss would count the several classes of knots and transfer the tally to a pocket memorandum or to the side boards of the chuck wagon. The wagon boss would then see that all knots were again released, thus using due and reasonable care to avoid duplication.

Some of the "old timers" tell this story of a young English Lord, who had graduated from Oxford, rode to the hounds, stepped on the brass and otherwise graced the mahogony before coming over to verify some of the wonderful tales he had heard about Texas and its cow outfits. After visiting around for a season he called on the "old man" for a remittance sufficient to purchase a cow outfit. When the money arrived this bright scion of nobility set out for the plains to make a purchase in due and ancient form.

Very soon thereafter it began to be "norated" around that a good buyer had arrived and then a "good thing" was offered to his Lordship, who saddled a "hay burner" and got under way. Upon arrival at the designated place of delivery he was seated on a hillside to observe and count the cattle that were to be driven around the hill until the required number had been inspected. It never occurred to his Lordship that it might be possible to make an *inventory test* from the hilltop, a slight mistake that caused an overstatement of inventory by 400 per cent.

Old Time Financial Methods

The old time cowman when in need of money would ride up to the bank, either fixed or movable, tell the president the size of the herd and the amount of money he might need, take a pad of checks and then ride off as quietly as he had appeared. In early days the cowman's word was his bond and the banker would honor the checks when, as and if drawn, and credit the cowman with outturns of sales when, as and if made. Sometimes the bank

was on wheels and moved from place to place to suit the convenience of good customers who willingly paid from 12% to 36% for cattle loans. The banker of those days was a rare judge of human nature and, also, a good shot when the occasion arose.

Whenever the cowman made a purchase he would require a bill of sale to protect the odd brands in his herds. The memoranda regarding sales and all other transactions, including a bottle for "snake bite," were usually deposited in a carpet bag, in connection with which one of the Panhandle bankers, now a director of the Federal Reserve Bank in Texas, tells a good story of Dugan and Murphy who, in the eighties, operated a cow outfit on Blanco Canyon, and came to him to write up and audit the contents of their carpet bag.

After the books were posted, together with the preparation of a statement of condition and operations, Dugan and Murphy were called in to go over the accounts and statements, all of which they found to be entirely satisfactory. They then requested the auditor to draw two dividend checks against the cash on hand, on a fifty-fifty basis, and also instructed him to draw up a new partnership agreement which included an inventory of cattle, horses and other equipment on hand. After these simple formalities they then burned all of the old data, books and statements, paid the auditor, took a drink around and expressed their generous appreciation for the good service rendered.

In reply to the auditor's request for the why and wherefore of this unusual procedure, he was informed that each of them had a wife with more than gifted curiosity and that, if caught, there would only be one year to explain and divide. This same method continued from year to year until the entire herd and equipment were sold, at which time there was a final audit, a distribution of cash and the complete destruction of all records. For the adoption of all necessary safeguards against possible disputes and unwarranted curiosity these Irishmen probably deserve commendation and honorable mention.

Now take the story of one Mr. Tankersley who operated a cow outht not far from the Pecos valley which then had an unsavory reputation for first class ropers and brand blotters. In addition to the regular 7D brand, Tankersley had a "trail brand" which he conveniently forgot to record. After placing the 7D on the left side, the animal was turned over and a bar, 4 inches long, would be run low down in the right flank, so that it could not be noticed when the animal was standing. When the 7D boys ran into a suspicious looking outfit they had the cow thrown to take a look at its belly and then and there settled the ownership, at the point of 45's whenever it might be necessary to do so.

Colonel C was an "old timer" from the South plains, and "Believe it or not" his bills receivable carried a formidable credit balance while there was also a good sized debit balance for notes payable. Several other ledger accounts appeared to be afflicted in a similar manner. In addition to the ledger and cash book there were boxes of valuable papers and memoranda that had not often been disturbed since the Colonel began keeping books several years previously. This estate had total resources amounting to over seven million; everything was found

in perfectly good order and all items were duly accounted for except $100 that had been taken by a bank teller when he found an error of addition in a deposit slip.

JA and Other Well-Known Texas Ranches

One of the oldest and perhaps best known cattle ranches in the Southwest is that of the JA, now being operated by Trustees of the late Mrs. Cornelia Adair. The foundation for this cow outfit was started in the early seventies by the late Colonel Charles Goodnight, who sold an interest to John George Adair about 1877, after which date the partnership was known as Adair and Goodnight until June 1887, when it then became the sole property of Mrs. C. Adair, the widow, who subsequently reigned as the Cattle Queen of the Panhandle until 1921. The brand JA is made by widening and rounding the top of A and placing the curl for J at the lower left wing of A.

The writer made his first audit of the JA Ranch in 1910, and is still so engaged. The records of the XIT, the King and the Matador ranches are similar to those of the JA: these ranches were known as the Big Four in the Southwest and every man or woman, connected with any of them, was quite proud of that distinction. These ranches have always enforced the prohibition of intoxicants and gambling to the limit, the penalty being a summary discharge for disobedience. The owners did not prohibit drinking outside of the ranch property but everyone had to come back sober, or else call for the pay check.

There were other rules of conduct rather far in advance of those laid down by some of our "noble" modern reformers, and these were duly enforced without fear or favor. Then, too, the cow punchers had formulated a few rules of their own that were broken only at one's peril, the chief of these being ample protection for the chastity of womankind in general and no remarks concerning women were permitted. Honesty was another cardinal virtue. The real cowman may have had a rough exterior but his heart was pure gold and he kept it untarnished.

Accounting for the cattle ranch is not a difficult matter when the rule of common sense is applied. The old English accountants put in the first regular set of books for the JA ranch; these were used with but little change until 1912 when express authority was procured from Mrs. C. Adair "to make a few necessary changes".

The accounting methods of the JA Ranch may not be quite so extensive as the expert or research reformer would have them, but they have successfully covered a lot of territory. Several years since, the writer prepared some accounting data for the use of South American and South African cattle companies. A former JA manager was engaged by the South African Company and a former Matador manager by the South American Company, together with some cowboys who made good on the JA and the Matador.

Plant, Stock and Business Dealings

Live stock herds, lands and equipment constitute the plant of the well regulated ranch or cow outfit. The first herd of importance is the Main or Sale Cattle Herd, the producer of gross revenue. Good healthy cows and first class bulls are most essential, and

require much care and attention in order to produce a constant and regular calf crop. The lands must have grass and water with some degree of regularity, else the calf crop may suffer along with the herds. Grass is largely dependent upon the seasons, but the water supply may and should be a matter of foresight, it being absolutely essential for the welfare of the herds. Equipment, in the main, consists of trucks, wagons, tools and sundry cooking utensils. The inventories may be made perpetual and, in general terms, can be stated with reasonable accuracy at the close of any given day or month.

Live stock herds consist of the Main Cattle Herd, Cattle Brood Herd, Main Horse Herd, Horse Brood Herd, and perhaps other herds or flocks. Each of the principal herds not only has an account in the ledger but requires tally records or unit counts as well. The most active account is the Main Cattle Herd, herein described in more or less detail; the same principles apply to all other herds except the Main Horse Herd, which consists only of broncs or cow ponies and draft animals to perform various kinds of labor.

The Main Cattle Herd consists of cows, full two years and over, and bulls two years and over, all for breeding purposes; also, heifer calves and one and two year heifers retained for replacements of cows, one and two year bulls retained or purchased for replacements, steer calves and one and two year steers for sale, and old steers which may have escaped prior sale by hiding out in the arroyas and canyons. Usually the calves, except the pick of heifer calves retained to become cows, are sold for fall delivery either to traders, who purchase to fatten, or to commission houses for the open market. The several classes are kept in separate pastures.

The Cattle Brood Herd, or registered stock, consists of cows, bulls and heifers. The best of the calves are retained for cows or bulls, while the inferior heifer calves may go into the main herd for sale, along with the inferior bull calves, which are always reduced to steers. The brood herd surplus bulls are more often sold to outsiders, it having been demonstrated that the brood herd is made stronger by the purchase of new bulls from foreign herds.

Cattle sales consist mainly of three general classes: (1) Sales to traders and breeders, usually from the pick of the steer calf crop, supplemented by sales of surplus cows, surplus calves and yearling steers and heifers. Sales of this nature are made by contract for delivery at some future date, including the posting of a forfeit with the seller while the buyer retains the right of a cut-back of from ten to fifteen per cent. of the animals that may be gathered and offered for delivery; (2) Sales in the open market consist of all animals above the normal herd requirements and may be sold on foot, at some specified place on or near the ranch, or shipped to one or more stock yards; (3) Sales by transfer, which are usually from the brood herd to the main herd, consisting of steered calves and heifer calves below established standards, and cows and bulls that may not be desirable in the brood herd.

Accounting Methods

Sales to traders find an initial entry in the Suspense Account for the amount of the forfeit and for the proposed number and kind of animals to which it applies. The final payment is

made upon completion of the count at delivery and goes directly to the credit of the Cattle Herd Account to which it applies; at this date a journal transfer is also made from the Suspense Account. The final and total sale entry then finds its place in the Tally Record, together with the amount, and the number and kind of live stock in the sale.

Sales in the open market find an initial entry in the Main Cattle Herd Account, either from the outturns of commission houses or from the payment made for spot delivery. An entry is then made in the Tally Record for the number of each kind sold, together with the net amount obtained therefor. Sales through commission houses are subject to deductions for freights, feed and sales commissions; these items are then allocated by weight percentages to the several kinds of animals included in the sale, so that the net amount received for each kind of animal may be properly entered in the account for herd sales and in the Tally Record as well.

Sales by transfer are evidenced by journal entry from one herd to another, at which time there is a debit to one herd on the Tally Record, with a corresponding credit to another herd. New calves are in the nature of transfers from the cow to the field and these are usually entered on the Tally Record when branded, or at the end of the season, stating the number of steers or heifers branded and unbranded, but without price until they are included in the final inventory at the closing period.

The account of the Main or Sale Herd begins with the annual inventory which is re-classified as at May 1 as to kinds, but not as to price. For instance, the two year old heifers at December 31, or any prior fall date, have been or will be taken from the heifer pasture before May 1 and turned into the Main Herd pasture, thereby becoming cows. In turn, the one year heifers become two years old and the heifer calves become one year old. The same process applies to bulls which are termed herd bulls, two years, one year and calves. The steers are full grown at three years, provided they have escaped the watchful eye of the wagon boss, and sometimes two years old, all of which probably should have been sold as steer calves or, at least, as yearling steers.

The charges to the Main Herd consist of breeding bulls, transfers and miscellaneous items, such as write-backs, strays or refunds. The credits are for sales, transfers and the closing inventory, which includes all calves branded or unbranded during the current year. A widespread practice in the pricing for the inventory has been the basing of it upon an approximate flat price per head, regardless of the cost or of the market, it being the twenty year average sale price of cattle in the open market, less the cost to carry over one year. Under the circumstances of the past, at least, the fixed price basis has been more satisfactory because it was conservative and not subject to wide market fluctuations.

The Horse Brood Herd is handled similarly to the cattle herd, by change in names to colts, yearlings, two-year old and (3 year) broncs (broncho), mares and stallions. The pick of the broncs are broken for the Main Horse Herd, and the surplus is for sale. The Main Horse Herd is made up of broncs or cow ponies, work horses and work mules; the "condemns" are sold each

year after the new broncs have settled down and gone to work.

The lands of many of the larger cattle ranches are of two kinds, the first being known as Patented Land, which is usually held in fee, while the second known as School Land, is generally the alternate sections that have been purchased on long time from the State School Fund at a very low rate of interest.

The original JA Ranch was well over 1,000,000 acres, but at present it is about 426,000 acres, located in four counties. It is listed for taxes by giving the Pat. No., Abst. No., Orig. Grant, Sec. No., and the acres in each tract or parcel. The XIT Ranch, known as the Capitol land grant, began with 3,000,000 acres, while the King and the Matador each had over 1,000,000 acres.

The books are (1) cash book, taking about 90 per cent of all original entries, which monthly are totaled and analyzed in detail for the several expense accounts; (2) Journal, taking entry for live stock transfers, transactions with tenants, land trades and closing entries; (3) Tally Record, divided for each herd to show each unit; (4) Land Book, divided for each county, both for Patented and School lands, to show each separate tract or parcel; and (5), General Ledger, which carries all of the capital, operating and sundry individual accounts.

The City of Houston

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by bus and air lines; it has cheap and abundant fuel, ample labor and a splendid geographical location. The principal industries are oil refineries, compresses, cottonseed by-products, rice, flour, planing and textile mills, chemical and fertilizer works, elevators and other important industries. Houston is also the leading petroleum and lumber market of Texas.

Houston is typical of the culture and refinement of the old South, abounding in a hospitality that is unsurpassed. Its citizens have unbounded faith in the future and possess the courage to make their dreams come true. From an humble beginning it has grown into a modern city of skyscrapers, factories, paved streets, boulevards, parks, fine schools and beautiful churches. It bids the stranger welcome with a warmth which makes him feel that there is no better place to live than Houston, where he finds over 300,000 citizens who know that it is the greatest city in the Southwest.

The Business and Accounts of a Cotton Merchant

The May, 1931 issue of the L. R. B. & M. JOURNAL contained an article on the above subject, which was written by Mr. J. F. Stuart Arthur, one of our partners in Texas.

Because of the importance of the cotton industry in Texas, Mr. Arthur had expected to write an article for this issue of the JOURNAL, further developing the subject of his earlier article, but, unfortunately, he has recently been ill and was therefore unable to write the article in time for publication in this issue. It is expected, however, to appear in an early issue of the JOURNAL.

Accounting on the Range

By "Uncle Reuben Brown"*

It is not so much a question of the money
that we *make*,
As it is the way we save it, when accounting
we must take;
For sometimes we make a profit—other
times—we take a loss,
So we must be very careful in our game of
"pitch and toss".
Ranching business is a science,—as we work
it out today.
Every man must be observant if he hopes
to make it pay;
But, if you possess "the makings" of the
man you ought to be,
Then your profits will be measured by your
brand and pedigree.

Every ranchman will remember when we
worked the "open range",
As we met in yearly "round-ups" and would
make a fair exchange;
When we gathered up the increase, giving
each his mark and brand;
Riding till the job was finished—as we
worked them to a stand.
Then, of course, we kept a record of our
herds from year to year;
Gave each man his "count and talley" as he
came from far and near;
It was not in strict accordance with the
method now in vogue,
But it answered every purpose, and we seldom found a rogue.

If our banker notified us our account was
"in the red",
Then, of course, there were no profits—we
had simply "over-fed".
Over-feeding sometimes happened—many
times—as ranchmen know;
And when it did, we calmly said—"well, gol
darn it, let her go".
But when we found,—as oft we did—that
we had some cash to spare,
We would mount our broncs, ride off to
town, and all "go on the air".
We "flashed our roll", we bought the best,
we made "whoopee" for a time,
And when at last we rode for home, no one
had a silver dime.

Ranch life today has greatly changed since
the days of "open range",
Improvements seen on every hand, coming
with this chain of change.
In headquarters, in the bunkhouse, in corrals
and holding pens
Can be seen a great improvement which an
added beauty lends.
Along with these we cultivate both the body
and the mind;
As our children become cultured, educated
and refined.
So our cattle from the "long horn" to the
thoroughbred have grown,
And our sheep and goats are graded until
none are better known.

Thus along with education and the proper
use of words
Which we gave unto our children—we did
not forget our herds;
But in keeping with the progress found on
every hand arrayed,
We introduced the thoroughbred for cross-
breeding with the "grade".
Then we very soon discovered both in cattle
and in sheep
That the increase in their value mounted
while we were asleep;
That we could produce a yearling of the
higher grade and strain
Just as cheap and twice as heavy as the
"long horn" on the train.

When we shipped them to the market in the
spring or in the fall,
The returns were most surprising in their
class and weight to all.
Just as "blood will tell" in people, so in live-
stock does the same—
As each ranchman has discovered when he
gets into the game;
Yearly profits are augmented with improve-
ment of the herd.
With the "overheads" decreasing, some will
say, at least a third,
When we strike our yearly balance—pay off
what we owe the bank,
We can all be "sitting pretty"—and the
Great Creator thank.

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* *Pen name of Colonel C. C. Walsh, Chairman of the Board and Federal Reserve Agent, Eleventh District, Dallas, Texas.*

Federal Income Tax Returns Under Texas Community Property Laws

By Albert G. Moss

Community Returns

In the year 1919 a Dallas husband consulted a Dallas attorney in connection with the preparation of his federal income tax return for the year 1918. The attorney, an authority on the Texas community property statutes but disclaiming any special knowledge of the federal income tax law, concluded that the federal income tax law taxed the owner of the income, and advised his client to divide the community income equally between himself and wife and each report in a separate return one-half of such income.

In due course the returns (now commonly called "Community Returns") were examined by the Bureau of Internal Revenue, and the attorney and his client were brought before the local representatives of the Bureau and asked why they should not be prosecuted criminally for attempting to evade the payment of income tax. The attorney disclaimed any intent to evade the payment of income tax and offered in evidence the Texas statutes relating to community property, but the Bureau representatives were not convinced. However, before the Bureau representatives reached a conclusion on the matter one way or the other, the Commissioner of Internal Revenue, following a decision of the Attorney General of the United States, temporarily disposed of the matter by the issuance of T. D. 3071, 3 C. B. 221, (Aug. 24, 1920), in which he ruled that the earnings of husband and wife domiciled in Texas, the income from community property, and the income from separate property, except the increase, rents and revenues from lands, is community income, and such husband and wife in rendering separate income tax returns could each report as gross income one-half of such community income. The exception as to rents and revenues from separate lands has been since removed by court decisions and legislative enactments.

In March, 1921, the Commissioner ruled that the husband and wife domiciled in Arizona, Idaho, Louisiana, Nevada, New Mexico and Washington could file returns on the so-called "community basis", but this right was denied the husband and wife domiciled in California on the ground that "while the statutes of California are in some respects similar to the community property laws of the other community property States, the rule established by the highest courts of that State is that during coverture the wife has no vested interest in the community property, her interest therein being a mere expectancy". T.D. 3138, 4, C. B. 238.

Californians were not satisfied with the Commissioner's ruling and carried their case to the courts. In January, 1926, the Supreme Court of the United States in *U. S. v. Robbins et al.*, 269 U. S. 315, reversed a lower court decision and agreed with the Commissioner. This decision was the cause of much anxiety to the residents of the other seven community property States because the Court, after holding that the California wife did not have a vested interest in the community prop-

erty, went a step farther and remarked as follows:

> But the question before us is with regard to the power and intent of the Revenue Act of February 24, 1919, ... Even if we are wrong as to the law of California and assume that the wife had an interest in the community income that Congress could tax if so minded, it does not follow that Congress could not tax the husband for the whole. Although restricted in the matter of gifts, etc., he alone has the disposition of the fund. He may spend it substantially as he chooses, and if he wastes it in debauchery the wife has no redress. . . . His liability for his wife's support comes from a different source and exists whether there is community property or not. That he may be taxed for such a fund seems to us to need no argument. The same and further considerations lead to the conclusion that it was intended to tax him for the whole. For not only should he who has all the power bear the burden, and not only is the husband the most obvious target for the shaft, but the fund taxed, while liable to be taken for his debts, is not liable to be taken for the wife's, Civil Code, par. 167, so that the remedy for her failure to pay might be hard to find. The reasons for holding him are at least as strong as those for holding trustees in cases where they are liable under the law. . . .

After the *Robbins* decision, the Attorney General of the United States withdrew his former opinions permitting the division of income in the other seven community property States stating that the *Robbins* decision raised very substantial doubt as to the soundness of the two former opinions. In Mim. 3723, VIII-1 C.B. 89, the Bureau then announced that it took the position that the income could not be divided in any of the states, but that pending final decision by the Supreme Court it would accept separate returns which divided the community income, subject, however to any adjustments that might be necessary after final decision of the Court. 1932 C.C.H., F.T.S. 1, page 455.

Five cases were taken by the Government to the United States Supreme Court and all of them were decided in favor of the taxpayers. The Washington and Texas cases are of interest to Texans.

In the Washington case of *Poe v. Sanborn*, 282 U. S. 101, the Court construed sections 210 (a) and 211 (a) of the Revenue Act of 1926 in the following words:

> The case requires us to construe sections 210(a) and 211(a) of the Revenue Act of 1926 . . . . and apply them, as construed, to the interests of husband and wife in community property under the law of Washington. These sections lay a tax upon the net income of every individual. The Act goes no farther, and furnishes no other standard or definition of what constitutes an individual's income. The use of the word "of" denotes ownership. It would be a strained construction, which in the absence of further definition by Congress should impute a broader significance to the phrase.
>
> The Commissioner concedes that the answer to the question involved in the cause must be found in the provisions of the law of the State, as to a wife's ownership of or interest in community property. . . .

Thus the Supreme Court reached the same conclusion that was reached by the Dallas attorney in 1919, namely —that the income tax law taxes the owner of the income.

The decision of the Court in the Texas case of *Hopkins v. Bacon*, 282 U. S. 122, is quoted in part as follows:

> The statutes contain sweeping provisions as to what shall be included in community property. They provide that each spouse shall have testamentary power over his or her respective interest in the community property. In the event of failure to exercise such testamentary power they provide that the property shall go in the first instance to the descendants of the deceased spouse. They

provide, as is usual in States having the community system, that the husband shall have power of management and control such that he may deal with the community property very much as if it were his own. In spite of this, however, it is settled that in Texas the wife has a present vested interest in such property. *Arnold v. Leonard,* 114 Tex. 535, 273 S. W. 799. Her interest is said to be equal to the husband's. *Wright v. Hays,* 10 Tex. 130, 60 Am. Dec. 200. It is held that the spouses' rights of property in the effects of the community are perfectly equivalent to each other. *Arnold v. Leonard,* supra. These expressions as to the wife's interest are confirmed by the authorities holding that if the husband, as agent of the community, acts in fraud of the wife's rights, she is not without remedy in the courts. *Stramler v. Coe,* 15 Tex. 211; *Marvin v. Moran,* 11 Tex. Civ. App. 509, 32 S. W. 904; *Watson v. Harris,* 61 Tex. Civ. App. 263, 130 S. W. 237; *Davis v. Davis,* Tex. Civ. App. 186 S. W. 775.

In view of what has been said in No. 15 (*Poe v. Sanborn,* supra), it remains only to say that the interest of a wife in community property in Texas is properly characterized as a present vested interest, equal and equivalent to that of her husband, and that one-half of the community income is therefore income of the wife. She and her husband are entitled to make separate returns, each of one-half of such income.

Since the remarks of the Court in *U. S. v. Robbins,* supra, which caused so much anxiety to taxpayers of community property States, and which were characterized by several attorneys of Texas as "dictum", were not referred to in *Poe v. Sanborn,* the question of whether Congress could, if so minded, tax the husband for the whole community income, must remain in doubt. Congress did not, however, make an attempt to do so in the recently enacted Revenue Act of 1932.

The initial acknowledgment by the Commissioner of the right of Texans to file so-called "community returns", the withdrawal of that acknowledgment, followed by the United States Supreme Court's decision settling the question in their favor, have served to focus the attention of Texans upon their community property statutes. It is strange indeed that, prior to the advent of community income-tax returns, but relatively few Texas laymen had more than a hazy conception of the workings of the community property system; and this is all the more remarkable in view of the fact that the system was legally adopted by the Act of January 20, 1840, when Texas still was a republic.

Many wives were agreeably surprised to learn that they occupied such an important part in the financial scheme of things. When some wives became aware that upon dissolution of the marriage relation by a decree of divorce, the community estate is ordinarily divided equally between husband and wife, they promptly assumed an air of proprietorship not warranted by law.

Some husbands, fearing that the Supreme Court's decision on the question of the right of husband and wife to file community returns would be adverse, made gifts to their wives of one-half the community estate only to learn later that one-half of the community property which they retained was also vested in their wives under the law; so that as a result of the transaction the wife was possessor of three-fourths of the community property; and it is quite likely that prior to the advent of community returns neither of them was more than vaguely aware that the wife had any legal interest whatsoever in the community property.

The foregoing and many other other interesting features of the community property system naturally prompt

Texas laymen to enquire: What is the community property system and what is its origin? Reference to the works of some of the writers on the system discloses the brief answers which follow:

The Nature of the Community Property System

Speer in his Law of Marital Rights in Texas (3rd Ed.), says:

It is the cherished policy of our laws to regard the married union as a species of partnership in which each partner may own a separate or individual estate, and at the same time share equally in the common gains or acquisitions. It clearly defines what property shall enter into this common fund, and what property, and to what extent, shall remain the separate property of each partner. No effort is made to vest a greater portion of these joint acquisitions in one spouse than in the other. The wife's rights, in point of ownership, are in every respect the equal of those of her husband. They are identical; in short they own the estate in common. And why not? If the wife's right to own property at all be recognized, it would certainly seem that her claims to an equal interest in the common gains of herself and husband are the most just. True, the husband is the active, managing partner of the union, who by common consent is expected to find a support for his family; yet the wife's duties and burdens, in behalf of the husband and family, are none the less important. Their duties and obligations are in the highest sense reciprocal. They vary in detail, but herein lies their mutual advantage to each other. The only perceivable difference between their rights in the common property is that the right of management and disposition is given for the most part to the husband; hers is an equal right to the property itself, its beneficial use, subject to the husband's power of control and disposition for their common good. While he is permitted this seeming advantage, he is likewise charged with a corresponding burden, that of personal liability for the support of his wife. His superior control of course, lasts no longer than the coverture, and while his liabilities as head of the family last. It can make no difference whether the acquisition is in matter of fact the result of the husband's or the wife's labor, skill, or investment; the law will not inquire into these things. Whatever is acquired by either or both, in whatever manner acquired, with the exceptions stated, becomes at once the common property of both in which the interest of the wife is equal to that of her husband.

The wife's interest is hers upon the husband's death, not as heir but as owner freed from the statutory control of the husband during the marriage.

Origin of the Community Property System

McKay in his Community Property (2nd Ed.) says:

It is quite commonly said that in the states of Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas and Washington, the system of community was borrowed either mediately or immediately from Spanish law. This statement requires a word of explanation. The Spaniards established the system in their possessions which included the territory now comprising the states of Arizona, California, Louisiana, Nevada, New Mexico and Texas. The law of community was displaced in Nevada and later restored by statute.

The community property system established by the first Code of Louisiana was composite in character, combining French and Spanish elements. As to the make-up of the common fund it was purely Spanish; in other respects it was as much French as Spanish.

The Code of Louisiana furnished the material largely for the first Code of California, and in turn this became the model of the first codes in Arizona, Idaho, Nevada and Washington. A later form of the Code of California became the basis of the present law in New Mexico. The first Code of Texas shows traces of its Louisiana origin. In Idaho and Washington the system is an exotic one and the first statutes were copied from California.

It is a favorite theory that community of property between husband and wife is of Germanic origin. This is not true in the full sense often accepted nor is it untrue.

It is true that early Germanic law is rich in various forms of communal associations, and several forms of marital community have

arisen out of Germanic law, together with forms of marital property excluding community.

The Goths were a Germanic race and had community by customary law, while they occupied southwestern France, traces of which they left behind them. And they carried it to Spain when they conquered and occupied that country; and finally a Gothic ruler of Spain by statute made community of matrimonial gains the general law of the country. Community arose in that part of France called the "Countries of Custom". This term was used in contrast with the "Countries of Written Law". In the latter countries the Roman law with its dotal system prevailed. The "Countries of Custom" were occupied largely by the Franks and other Germanic races, and their descendants, and it was in these countries—these parts of France—that community prevailed quite generally. It arose from the Germanic customary law of the people. It did not drift across the border from Germany. And finally community was made the general law of France by the Code Napoleon. The first draft of that code became the model for the Code of Louisiana. The Code of Louisiana continued the Spanish law as to the make-up of the common fund, but its other provisions as to community property were as much French as Spanish. This Code of Louisiana was largely drawn upon directly or indirectly in framing the early codes and statutes in the other states.

In *Robbins et al. v. United States*, 5 F. (2d) 690, (D.C.N.D. Calif.) Judge Partridge made the following statement:

> Community property seems to have been unknown to the civil as well as to the common law. Some cases, indeed, seem to say, without much consideration, that it comes from the civil and Spanish law. I think, however, that the authors of those opinions have been misled by the fact that it was incorporated into the Code Napoleon, and perhaps by this road found its way into Louisiana. Nothing could be clearer, at any rate, than that it did not exist in France prior to the Code Napoleon. It seems almost equally clear that it found its way into Spain from sources far north of east, from the Visigoths and not from Rome, a product Germanic, and not Italian, of Euric or Tolosa, and not the Cæsars.

Speer, supra, says that the Texas community property system in large degree sprung from the Spanish civil law.

According to the authorities quoted it appears that the Spaniards directly and the French indirectly acquired their community property systems from the Germans and that Texas acquired her system from both the former. However, according to McKay, supra, the Germans were not the sole originators of the system. On this question he says in part:

> Legal history clearly proves that the various forms of community found in western Europe are not all the product of any single race or country. Community did not spring up in any one country nor among any one race and spread to the other parts of Europe where it is found. . . . In the early days, community property sprung up among a race or people from its own customs, and not by adoption from a foreign race.

So much for the community property system and its origin. The remainder of this article will deal with the treatment of the income, for federal income tax purposes, of husband and wife domiciled in Texas.

Treatment of Income for Federal Income Tax Purposes

If husband and wife elect to file separate returns, each must report one-half the community income. In addition if either spouse receives any income which, under the statutes and decisions of Texas, is separate income such income must be included in the return of the spouse to whom the income belongs.

The statutes define separate and community properties as follows:

Husband's Separate Property: All property of the husband, both real and personal, owned or claimed by him before marriage, and that acquired afterwards by gift, devise, or descent, as also the increase of all lands

thus acquired, shall be his separate property. . . . . (Article 4613).

Wife's Separate Property: Same as husband's. (Article 4614).

Community Property: All property acquired by either the husband or wife during marriage, except that which is the separate property of either, shall be deemed the common property of the husband and wife; and all the effects which the husband and wife possess at the time the marriage may be dissolved shall be regarded as common effects or gains, unless the contrary be satisfactorily proved. . . . (Article 4621).

Generally speaking, income meaning rents, interest, and like revenue from separate property, is community property. Income, however, where the term is used in the sense of capital gain or increase of separate property is ordinarily separate property. Determination is not always easy, as, for instance, in the case of stock dividends where the question is still open. On the subject generally, Speer, supra, says in part:

Whatever is acquired by husband or wife by speculation with the separate funds is community property. If there be gains, they are not acquired by gift, devise, or descent. They are the fortuitous result of a contract based upon a consideration, the profits of a venture. They do not represent the enhancement in value of the particular piece of property, but an amount additional to the original fund, for its use or as a compensation for the venture, and for the time and attention bestowed. The purchase of merchandise with the wife's funds, and their sale at a profit, constitute such profits community. They are the compensation for the use of the money and the time and labor of the spouses in the enterprise. The same is true as to profits of speculation with her funds in bonds, stocks, lands, or anything else. Her purchase with her means of a lottery ticket constitutes the profits upon her venture a part of the community funds. Just how far this rule will be carried remains to be seen. It has within it the elements of danger to the wife's separate estate. It would not do to say that every sale of the wife's property at a price in excess of its cost to her would, to the extent of this increase—or profit it may be called—render the proceeds community property. This would lead to no end of confusion, and seriously affect the wife's right to own an estate. For it is well settled that the wife's property may undergo changes and mutations, be sold and the proceeds invested, resold and reinvested, and yet preserve its separate character, so long as she can trace its origin to funds belonging to her. And it is also further well settled that the enhanced value due to an appreciated market, natural growth, increased size, and the like, remains hers, and does not become part of the community as increase of her property. The true rule, then, would seem to be that if the wife's funds be employed in making purchases for the purpose of reselling at an enhanced price, and the object of the transaction be, not the permanent acquisition, but the gaining by this means of a sum for the use and employment of her property, the profits thus realized would rightfully belong to the community estate of herself and husband.

In the relatively few cases ruled on by the Commissioner of Internal Revenue and decided by the United States Board of Tax Appeals, the decisions of the Texas courts have been followed in determining whether income is separate or community. In G.C.M. 6351, VIII-2 C.B. 188, the General Counsel ruled that cash bonuses paid to a wife in consideration of her execution of oil leases on real estate inherited and owned by her in fee simple prior to her marriage constitute her separate income. The General Counsel cited the case of *Stephens v. Stephens,* Texas Civ. App. 292 S. W. 290, in which the question of oil royalties derived from the leasing of the separate property of the husband was at issue. In the course of its opinion the Court of Civil Appeals stated in part:

It has always been held in this State that the consideration received for the separate estate of the husband or wife, whether money

or property, continues to be separate property, . . . And that the separate estate may undergo mutations and changes and still remain separate property so long as it can be clearly traced and identified.

The land is separate property. The oil in place is realty capable of distinct ownership, severance, and sale. It is a part of the corpus of appellee's sole estate. He conveyed his oil and received as the principal consideration therefor one-eighth of the production. No skill, labor, or supervision of either of the spouses, and no community property was expended in the sale or production. The oil and the proceeds thereof received by the appellee were neither rent nor profits, within the meaning of the law making such common property, but the consideration for the separate realty. Extracting the oil from beneath the surface depletes and exhausts forever the corpus of his separate property; removing it to the top of the ground changes it from real to personal property; but such change or mutation, and the money received, are definitely traced, and, in our opinion, the fund in controversy belonged to the appellee in his sole and separate right.

In a number of cases the United States Board of Tax Appeals has held that bonuses received upon the execution of oil leases on separately owned land and royalties on oil and gas leases on separately owned land constitute the separate income of the owner.

The General Counsel has ruled that the profit from the sale of stock in a corporation, which stock was acquired by a wife from her husband as a gift but which originally was purchased by the husband with community funds, is the separate income of the wife. G. C. M. 8209, IX-2 C.B. 326.

The General Counsel has also ruled that the income from a trust fund created by a will is the separate income of the beneficiary. G. C. M. 5741, VIII-1 C.B. 160.

The question of the character of the income from a trust fund established by a father, while living, for the benefit of his daughter is pending before the United States Board of Tax Appeals, the daughter contending that it is the community income of herself and husband and the Commissioner that it is her separate income. In this case the daughter is to receive the income from the fund during her life and may dispose of the corpus by will.

Although the statutes appear to define separate and community properties with reasonable clarity, an examination of the decisions of the courts construing these statutes indicates that such is not the case. For this reason Texas income-taxpayers should not too strongly rely on the broad definitions contained in the statutes.

The City of Dallas

(*Continued from page* 3)

pitality, culture and refinement of the South, the broad vision and daring enterprise of the West, the shrewd business sense and indefatigable energy of the North and East. More than half of the population of Texas is within a radius of 100 miles of Dallas.

The business man conducts his enterprises in modern buildings; his home is an attractive residence, with a landscaped lawn that enhances the beauty of a wide, tree-lined street; he takes his exercise on sporty golf courses, unsurpassed tennis courts and the sandy beaches created by the hands of enterprising citizens; he pays homage to God and educates his children in churches and schools that are second to none for beauty and all necessary facilities.

The Cottonseed Products Industry in Texas

By THEODORE W. MOHLE
(Manager, Houston Office)

Texas grown cotton is shipped to spinners in all parts of the world and the importance of lint cotton to the State of Texas is, therefore, generally recognized. However, due to the comparatively recent development of the cottonseed products industry and the uses of those products for direct consumption and further manufacture, the importance of that industry is not so generally known.

The cotton, when picked from the plants in the field, is conveyed to the cotton gin where the lint cotton is separated from the cottonseed. A bale of lint cotton of an average weight of approximately 500 pounds is produced from an amount of seed cotton weighing approximately three times as much. The cottonseed, usually weighing from 800 to 1,000 pounds per bale of seed cotton, was at one time, with the exception of a small percentage used for replanting, considered worthless. During the last century cottonseed mills have been built in the cotton belt. In the year 1881 there were in operation in the United States about 45 mills as compared with 510 mills in operation during the season of 1930-1931. In the season of 1880-1881, the cottonseed crushed by the mills amounted to 182,000 tons or six per cent. of the seed produced, while in the season of 1929-1930, seed weighing approximately 5,016,000 tons or 76.1% of the seed produced was crushed in the process of making cottonseed products.

Cottonseed product manufacturing consists of the operation of crude mills engaged in the crushing of the seed and the production of crude oil and other products, and the operation of cottonseed oil refineries in which the crude oil is refined. The principal products of the crude oil mill are as follows:

Crude oil (cottonseed oils and fats)
Cottonseed cake and meal
Cottonseed linters
Cottonseed hulls

Some of the many uses of these products or the derivatives thereof are shown as follows:

Cottonseed Oils and Fats

Refined Oils—Foods—Vegetable shortening—over a billion pounds annually and nationally distributed, extensively used also by bakers:
Salad oils, basis of mayonnaise industry;
Cooking oils, used also by baking trade;
Packing oils, used in packing sardines, fruits and vegetables, etc.
Refined Oil—Medical excipient.
Fatty Acids—Soap and soap powder.
Glycerin—Cosmetics, explosives, leather dressing, soap, lotions, etc.
Pitch—Artificial leather, cotton rubber, linoleum, oil cloth, roofing, etc.
Illuminating Oil—Miner's oil.
Vegetable Stearin—Candles, waxes, etc.

Cottonseed Cake and Meal

Food Products—Flour and meals rich in concentrated protein and ash for human dietary, meat substitutes.
Livestock Feed—Concentrated feed (rich in protein), used extensively in feed for dairy and beef cattle, hogs, sheep, horses, mules and poultry, important protein base for mixed feeds.
Fertilizer—High grade (contains nitrogen, potash and phosphorus).

Cottonseed Linters

Rayon—Dress goods, stockings, underwear, etc.
Batting—Comforters, cushions, pillows, stair pads, upholstery, etc.

Felt—Cloth, filters, hats, mattresses, pads, wadding.
Lacquers—Airplane dope, automobile paints, brushing lacquers, mending cement, etc.
Varnishes and Enamels—Automobiles, furniture, floors, etc.
Cellophane—Artificial glass, non-shatter glass, wrappers for food, candy, cigars and confections, etc.
Bakelite—Battery boxes, insulators, radio panels and accessories, etc.
Collodion—Medical and repair purposes, etc.
Containers—Sausage casings, etc.
Fabrics—Automobile tops, belts, brake lining, pocket books, book covers, valises and trunks, filters, linoleum, roofing, etc.
Films—Motion picture and photographic films.
Paper—All grades.
Plastics—Fountain pens, handles, imitation ivory, phonograph records, pyralin, etc.
Surgical Dressings—Absorbent cotton, bandages, gauze, etc.
Yarn—Carpets, clotheslines, mops, string, wicks, etc.

Cottonseed Hulls

Livestock Feed—Roughage, bran, dilutant for meal, etc.
Basis for Explosives—Guncotton, smokeless powder, etc.
Fertilizer—Humus, potash, etc.
Furfural—Synthetic rosin, etc.
Packing and Stuffing—Base balls, horse collars, etc.
Pressed Paper—Insulators, reinforcements, etc.
Xylose—A saccharine concentrate of great potentialities.

The cottonseed products industry is of great importance to the cotton belt of the United States. In approximately the same proportion in which Texas leads in the growth of cotton, so does Texas lead in the production of cottonseed products. Of the total of 510 crude oil mills operating in the United States during the 1930-1931 season, 171 were in the State of Texas. Approximately one-third of the cottonseed used for manufacture each year is crushed by Texas mills.

The United States Department of Commerce, Bureau of the Census, has estimated that the quantities and values of the cottonseed products of the crude oil mills in Texas for the year ended July 31, 1931, were approximately as follows:

	Quantity	*Value*
Seed produced..	1,799,000 tons	.....
Seed crushed...	1,261,741 tons	.....
Products:		
Crude oil.....	372,112,013 lbs.	$23,666,000
Cake and meal	603,182 tons	16,774,000
Hulls	358,482 tons	3,108,000
Linters	195,946 bales	1,758,000
Total value of products.....		$45,306,000

The above figures indicate that the products had an average value of $35.97 per ton of seed crushed. During the seasons of 1927-1928 and 1928-1929 the value of products per ton of seed crushed exceeded $50, but in line with the general decline of all commodity prices, the values have decreased and the average value for the season of 1931-1932 was considerably below the value of 1930-1931. The decline in value per ton during the season of 1931-1932 was partially offset by an increased production, the Texas mills crushing approximately 1,500,000 tons of seed. However, the value of the products manufactured by crude mills in 1931-1932 aggregated only about $28,000,000. The refining of the crude oil and the conversion of the refined oil into shortening, salad oils, etc., by refineries within the State of Texas increased the total value of the products to approximately $40,000,000.

A committee of the National Cottonseed Products Association has determined that during the three years, 1927-1928, 1928-1929 and 1929-1930, each dollar of the value of the products

from crude oil mills operating in the south was distributed as follows:

Amount received by farmers	$ .664
Transportation	.036
Conversion costs	.190
Mills profits	.009
Seed merchants' gross spread (ginners, middlemen, etc.)	.101
	$1.00

This committee, also, determined that the average per ton product values, operating costs and results for the Texas mills reporting to the committee during the three-year period were as follows:

Total sales of products		$50.13
Cost of products:		
Total cost of seed delivered at mill (includes transportation costs of $1.93)		$40.00
Current operating expenses:		
Wages including night superintendent	$2.03	
Press cloth and yarn	.29	
Power, light and heat	.91	
Repairs	.67	
Mill expense	.30	4.20
Fixed and general expense:		
Salaries including day superintendent	1.05	
Depreciation	.92	
Licenses and taxes (excepting Federal tax)	.26	
Insurance	.60	
Interest on capital	.48	
Office expense	.19	
Brokerage on products sold	.13	
Traveling and auto expense	.11	
Administrative expense	.23	
All other expenses	.24	4.21
Package expense		.77
Total cost of products		$49.18
Gross profit		$ .95
Less, Federal income tax		.20
Net profit		$ .75

When it is considered that practically all of the cottonseed grown is utilized by mills situated locally, the above tables indicate that a very large part of the revenue from the sale of crude oil mill products is distributed in the section producing the raw material. This is also true to a great extent in the case of the oil refineries.

The State of Texas and the other states of the cotton belt owe much to those who, through their vision, courage and enterprise, have built this great industry which now utilizes a raw product which, less than a century ago, was considered a nuisance. This industry is an important factor in the welfare of the agricultural and industrial life of the South and, in addition, provides necessities and comforts of life for mankind everywhere.

In the development of this industry, accounting has played its part. Accountants who have carefully studied the specific problems confronting the management of the industry have rendered valuable assistance in the installation of records, the preparation of reports and the interpretation of the information shown thereby. Almost each year there are found one or more new uses for cottonseed products and the future should bring greater development to the industry. The owners and managers of cottonseed mills and refineries today recognize, as never before, the value of the service of the accountant and the opportunity for service by the accountant should increase and develop as does the industry.

Tax Laws of Texas

By WILLIAM P. PETER

In Texas, as in other states, many ways have been discovered or devised to levy taxes upon anything giving promise of substantial revenue. The statutes apply to the franchise tax for corporations, to ad valorem tax for all property, real or personal, to annual fees for certain kinds of occupations, to registration fees for some professions, to gross receipts of public utilities, insurance companies, cement manufacturers and sellers, oil, gas and sulphur producers, text book publishers, etc., to intangible assets of public utilities, to excise taxes on gasoline and cigarettes, to poll tax or the right to vote, ages 21 to 60, and to inheritances on a graduated scale for five classes.

During every campaign since 1892 Texans have been promised tax relief but in 1932 the taxes are higher and more numerous than ever before. There has been some agitation for an income tax, coupled with the promise of a reduction in state ad valorem tax, which, after all, would be but a fraction of the tax since the taxpayer will yet pay ad valorem taxes to the county, city, school and other special districts. The legislature has just enacted a special road bond law, the effect of which, if held constitutional, may reduce some of the county ad valorem tax but in turn it may be replaced by a further tax on gasoline.

Domestic taxes occupy a rather important place in the system of accounting, but, as yet, the Texas taxpayer has not given this subject due consideration except in the matter of franchise tax, the reports for which require not only the technical knowledge of an experienced accountant but sometimes the attorney as well, as may be noted from the following comments on the franchise and inheritance tax laws.

Franchise Tax Law

The Franchise Tax Law of Texas imposes a tax upon domestic and foreign corporations, "based upon that proportion of the outstanding capital stock, surplus and undivided profits, plus the amount of outstanding bonds, notes and debentures, other than those maturing in less than a year from date of issue, as the gross receipts from its business done in Texas bears to the total gross receipts of the corporation from its entire business". The franchise tax is not a property tax, but a tax or fee for the privilege of doing business in Texas as a corporation and applies with equal force to both domestic and foreign corporations. The corporation is recognized as a legal entity created by the State, and, as such, the stockholders enjoy special privileges or benefits by reason of the charter, or permit, to do business as a corporation. Foreign corporations may secure permits to do business in Texas; these permits, for all practical purposes, grant the same rights as the charter issue to Texas corporations.

The rate of tax per $1,000, or fraction thereof, up to $1,000,000 is 60 cents, and the rate on the excess over $1,000,000 is 30 cents per $1,000 or fraction thereof. Corporations paying an annual tax upon intangible assets, owning or operating street railways, or organized to operate electric interurban railways, are required to pay a fran-

chise tax equal to one-fifth of the franchise tax required of corporations in general. This tax does not apply to terminal companies not organized for profit and having no income from business done by them.

All public utility corporations, engaged solely in rendering public utility service and subject to regulation, must pay a franchise tax "except the same shall be based on that proportion of the issued and outstanding capital stock, surplus and undivided profits, which the gross receipts of the business of said corporation done in this state bears to its total gross receipts, instead of the gross assets", the rate of tax being 65 cents per $1,000, or fraction thereof, up to $1,000,000, then 45 cents up to $10,000,000 and 35 cents in excess of $10,000,000.

Corporations engaged in more than one kind of business have special forms by means of which taxes are calculated and proportioned; also, "corporations which are now required to pay a separate franchise tax for each purpose or business authorized by their charters, shall hereafter pay only the tax provided hereunder for one purpose, and one-fourth of such amount for each additional purpose named in their charters".

Failure to pay franchise tax when due subjects the corporation to a 25 per cent. penalty. If the tax and penalty are not paid by the first day of July following, the corporation forfeits its right to do business in the state. Such forfeiture is effected by the Secretary of State's entering on the margin of his record the words "right to do business forfeited", and the date of such forfeiture. A corporation whose right to do business is so forfeited is denied the right to sue or defend in any state court, except in a suit to forfeit the corporation's charter. Such denial applies to a cause of action arising before, as well as after forfeiture of the right to do business, and applies in like manner to relief sought by the corporation by way of cross-action. Failure to pay the franchise tax, however, does not forfeit the corporation's charter, since such forfeiture may be brought about only in a suit by the Attorney General. Nevertheless, each director and officer of a corporation whose right to do business has been forfeited may be held liable as a partner for all debts of the corporation created within the state after forfeiture and before revival of the right to do business, if such debts are created with his knowledge, approval and consent.

In drafting this law, apparently an attempt was made to apply the tax on an equitable basis. It would seem that such a basis should comprehend the corporation's capital investment and also the amount of business actually done, whether profitable or otherwise. Although the business done may not be profitable, nevertheless, since it is only by the state's sanction that the corporation may exist, own property and do business, the method laid down by the statute is doubtless the logical method for arriving at a reasonably equitable basis for taxation. In this, as in nearly every revenue law, there may be some individual cases where an undue burden is imposed.

Some corporations have paid the franchise tax under protest, contending that the state has no legal right to tax a corporation on its indebtedness. Although the tax has been upheld by

the trial court, this question will not be officially determined until final judgment is rendered on appeal. Based upon the present trend of tax decisions, the final judgment will probably uphold the Franchise Tax Act.

Considering the financial structure of a corporation from a franchise tax standpoint, there is perhaps little distinction between capital stock and long term indebtedness. As a usual thing, proceeds from the sale of long term notes and bonds go into land, buildings, machinery and equipment or the development of natural resources, with a resulting increase in the value and earning capacity of the corporation. For the purpose of this discussion, generally speaking, surplus may be regarded as a means for adjusting the book value of the capital stock.

The owners of many securities constituting that portion of the economic capital of a corporation represented by bonds, debentures and long term notes, expect to recover their investment from earnings; the original investment, plus any increase in surplus not paid out as dividends, remains in the business. From the franchise tax standpoint, bank loans, commercial paper and other short term notes do not form a part of the economic capital; these items do not increase the permanent investment, but add to the strength of the working assets for temporary requirements and eventually will be liquidated by the collection or sale of current assets, regardless of profits. It will be noted that the wording of the Act, "bonds, notes and debentures, other than those maturing in less than a year from date of issue", makes a conventional distinction between the two types of indebtedness, restricting the tax to the items making up the economic capital.

The law does not attempt to define "gross receipts from business done in Texas", and there have been no local court decisions to cover fully this point. If the taxpayer is to take advantage of receipts from out-of-state business in computing the tax, he should follow the decisions of the United States Supreme Court which define interstate and intrastate business, respectively. It has been suggested that until the Texas courts determined otherwise, only intrastate business shall be included in receipts from business done in Texas, thus minimizing the taxable capital in proportion to the total receipts.

The tax is payable annually in advance on or before May 1. The tax must be computed and reported on forms prescribed by the Secretary of State on or before March 15 of each year, unless permission is obtained to extend the time for filing a report. The balance sheet of the reporting company, upon which balance sheet the franchise tax is based, must show the condition of the corporation either at December 31 or at the close of the last prior fiscal year as used in the corporation's federal income tax return. "The Secretary of State may for good cause shown by any corporation, extend the time to any date up to May 1." Article 7089 as amended by the Acts of the Forty-second Legislature provides that:

> Said report shall give the cash value of all gross assets of the corporation, the amount of its authorized capital stock, the capital stock actually subscribed and the amount paid in, the surplus and undivided profits or deficit, if any, the amount of mortgage, bonded and current indebtedness, the amount and date of payment of the last annual, semi-

annual, quarterly or monthly dividend, the amount of all taxes paid, or due and payable separately to the State of Texas, or to any county, city or town, school district, road district, or other taxing subdivision of Texas, for the preceding tax year, the total gross receipts of such corporation from all sources and the gross receipts from its business done in Texas for the fiscal year preceding, with a detailed balance sheet and income and profit and loss statement in such form as the Secretary of State may prescribe. . . . Said report shall be deemed to be privileged and not for the inspection of the general public, . . .

Forms have been prepared in accordance with the foregoing provision and are mailed to taxpayers on December 31. The forms include a comparative balance sheet, similar to that of the federal income tax return, a detailed profit and loss account and schedules requiring a list of assets located outside of Texas, detail of stocks and bonds owned, a list of all notes, bonds and debentures owed and the detail of all taxes paid. The penalty for failure to comply with all details is 10 per cent. of the tax.

The schedule showing the profit and loss account is rather unique in its arrangement. It also serves as an analysis of changes in taxable capital. After the net profit has been determined, direct charges and credits to surplus are applied, the result being the net change in surplus during the fiscal year. To this is added the net capital at the beginning of the year, followed by the detail of changes in long term indebtedness and capital stock, which gives the net capital at the end of the year. As a deficit is not deductible from capital stock in computing the tax, provision is made for adding back any deficit, the final figure being the taxable capital which must agree with the amount required to be shown on the balance sheet and in the computation of tax.

While the balance sheets, analysis of changes in taxable capital and detail of bonds, notes and debentures owed are designed to assist in checking the computation of the franchise tax, the law and the return require considerable information which has no bearing on the Franchise Tax. This information is required primarily as a means of checking and enforcing the payment of other taxes imposed by the state, especially ad valorem taxes. It is believed that the "detailed balance sheet and income and profit and loss statement" may be the purpose of proposing a state income tax law.

The schedule showing the detail of all taxes paid during the year is discomforting to many taxpayers because of the amount of work involved as well as the disclosure of confidential information. It requires the detail of taxes paid in each county, city, school district, etc., together with the assessed valuations of all properties upon which taxes are paid. As state property taxes are collected by the counties, an analysis must be made of the taxes paid in each county and the respective portions due state and county, all of which are shown separately.

The present law will doubtless cause some changes in method of corporate financing and will force corporations to use more care in the calculation of the Franchise Tax and the preparation of county and city tax renditions. It should and probably will encourage better accounting procedure, especially in connection with records pertaining to sales, property and taxes.

Inheritance Tax

Subject to the effect of the recent inheritance tax cases decided by the United States Supreme Court, beginning mainly with the Frick case and coming down through *First National Bank v. Maine,* holding in substance that intangible property of a nonresident is subject to death taxation in one state only, and that in the state of the domicile of the decedent owner unless the property has acquired a *business situs* in the state seeking to tax the transfer to the nonresident, all property within the jurisdiction of the state, real or personal, tangible and intangible, whether owned by inhabitants or nonresidents, is taxable according to certain classifications, with some exceptions, when passing by will or the laws of distribution and descent. The statute provides for reciprocity in certain cases. Generally speaking, all property acquired after coverture, other than by gift, devise or descent, is deemed to be community property, and, since each spouse actually owns one-half of such property, the tax, therefore, applies only to the half belonging to the decedent, but does not apply to the survivor's half.

The classes are: (a) husband, wife, direct lineal descendant or ascendant, wife of son, husband of daughter or adopted child; subject to an exemption of $25,000 for each heir, with rates from 1 to 6 per cent.; (b) transfers to the United States, when gift is to be used within state, take the same status as class (a); (c) brother, sister or direct lineal descendant thereof; exemption $10,000 with rates from 3 to 10 per cent.; (d) uncle, aunt, or direct lineal descendant thereof; exemption $1,000, with rates from 4 to 15 per cent.; (e) all others, except religious or charitable gifts for use within the state; exemption $500, with rates from 5 to 20 per cent.; and (f) religious, educational and charitable gifts, when to be used within the state are wholly exempt.

In those cases where accountants are engaged it would be well for them to assist the executor or trustee in the selection of official appraisers who are subject to confirmation by the Probate Court. This precaution should be valuable for the reason that the accountant possesses technical knowledge, not only for ascertaining the reasonable fair value of properties but also for looking into the future with respect to the effect of values established at date of death in connection with income tax problems.

One case in particular where the accountant's special knowledge was valuable was that of an estate comprising a live stock ranch, together with the herds, lands and equipment. Definite knowledge of the live stock herds, past sales, costs and death losses, coupled with the proper classification of lands in respect of sheltering hills, good only for summer pasture, river beds and raw land, and tillable lands, together with accessibility to railroads and highways, were most important factors for the determination of values. Estates of individuals in general present many other accounting problems, which, if overlooked, may prove more or less costly.

Ad Valorem Tax

Ad valorem taxes are assessed for all property, real and personal, valuations usually being based upon 40 to 60 per centum of the reasonable fair value or market value at January 1. The

tax is assessed for the state and counties, municipalities, school, road and levee districts, and is payable, in general, any time between October 1 of the current year and January 31 of the next year. After the latter date, unless legally extended, there is a penalty of 10 per cent. plus interest at 6 per cent. per annum until paid. The state and county, together with some municipalities and special districts, now offer to the taxpayer the option of paying the tax in two equal installments, the first on or before November 30, and the second on or before June 30 following.

The taxpayer, as a rule, has not given proper thought to property renditions. However, some of the larger firms and corporations have begun to engage accountants to determine taxes upon a more scientific basis with satisfactory results. Savings may be effected in several ways: (1) by stating properties, where possible, upon the basis of appraisals, (2) by writing off doubtful accounts and securities, (3) by regulating the inventories, and (4) by various other lawful means which may be apparent to the accountants and attorneys. The total of the ad valorem rates vary at different places; the reduction in tax value of $100,000 may mean a direct saving of from $3,000 to $7,000. The advice of accountants and attorneys should be sought before and not after January 1, the effective date of property renditions.

Miscellaneous Taxes

Occupation taxes, the rates of which vary, are payable annually in advance to the tax collector by peddlers, brokers, shows, light, water and ice companies, etc. Gross receipts tax applies to certain public utilities, to insurance, light, power oils, gas, sulphur, cement, special dealers, etc.; reports and payments are made to the Comptroller of Public Accounts, who, in the main, is vigilant in the discharge of his duties.

Intangible assets are determined by the State Tax Board for railroads, ferries, bridges and toll companies. The Board requires elaborate reports, fixes the amount taxable, and reports the same to the county tax collectors. The Governor may designate a member of the Board to visit one or more counties "for the purpose of aiding and investigating the enforcement of all revenue laws and especially those concerning the rendition, assessment and collection of taxes".

There are other special taxes applicable to sales of cement, gasoline, cigarettes, etc. The non-resident person, firm or corporation, doing business within the state through an agent or warehouse, should investigate fully the liability for taxes; otherwise, there may be needless trouble and expense. Accountants should not only make a special study of Texas tax matters but also should keep in close touch with legal counsel, as such assistance may be needed from time to time.

The October monthly bulletin of the New York State Society of Certified Public Accountants paid tribute to the important work of its Admissions Committee which investigates applications and makes recommendations to the Board of Directors as the basis for its action. Mr. Bell of our firm has been chairman of this Committee for some years and his photograph graced the bulletin's reference to the work of the committee.

The L. R. B. & M. Journal

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The purpose of this journal is to communicate to every member of the staff and office plans and accomplishments of the firm; to provide a medium for the exchange of suggestions and ideas for improvements; to encourage and maintain a proper spirit of cooperation and interest and to help in the solution of common problems.

Federal Tax Handbook

Colonel Montgomery's new tax manual is expected to come from the press in the course of the next thirty days. The character and scope of this new work are well described in the following announcement by the publisher:

The Revenue Act of 1932 contains entirely new taxes in addition to a general revision of the income and estate tax laws, designed to prevent reductions of these taxes by various ways previously regarded as perfectly legitimate. These new provisions, particularly in the income tax law, have had no counterparts in recent years. In a number of cases their constitutionality will undoubtedly be contested.

In other words, in preparing tax returns you are under the necessity, not only of acquainting yourself with new taxes and a new procedure, but of providing protection against overpayments under provisions which may be held invalid.

Montgomery's new Federal Tax Handbook provides a trustworthy analysis of the law and its application—including Treasury rulings, court and Board of Tax Appeals decisions—which will guide you at every step and enable you to protect your clients or employers against excessive or invalid exactions.

Mr. Montgomery interprets into plain, positive recommendations of procedure the whole 1932 law as it applies to all the taxes contained—income, estate, gift, excise. Questionable, provisions or rulings are discussed frankly, with the author's personal comments and suggestions as to the position to take and the course to follow. All through the book you get, together with your tax information, suggestions on the accounting procedure that will satisfy the requirements of the law.

The photograph on page 4 of this issue, which shows Main Street in the city of Houston, as it appeared forty odd years ago, is of particular interest to the founders of our firm because it shows the old Rice Hotel. This hotel was one of their stopping places on the annual audit round which they made in their early days in public accounting.

Stock Exchange Advocates Audits

In the course of a recent address, Mr. Richard Whitney, president of the New York Stock Exchange, made the following reference to the audit requirements in connection with the listing of securities on the Exchange:

The financial statements of any company seeking to list its securities are examined in detail, and in most instances the committee requires that they be accompanied by the certificate of independent auditors. This is not enforced in every case because there are many companies whose financial statements are either supervised by public authorities or whose business is so widespread that independent audits are impracticable.

While other exceptions are made in regard to audited reports, they are not numerous and the exchange in recent years has been insisting more and more upon the necessity of independent auditors. All this detailed information in regard to the company is printed in the listing application which is widely distributed and available to the public. The stock exchange can not guarantee the value of the securities which it lists, but it does undertake to see that each applicant company furnishes sufficient information so that all who are interested can inform themselves as to the past and present history of the business.

In connection with the foregoing it is interesting to note that a few weeks ago the New York State Society of Certified Public Accountants published a special bulletin containing data relating to audits by independent public accountants of the financial statements in the 1931 published annual reports of corporations with stocks listed on the New York Stock Exchange. It is stated that out of 781 such reports examined by the Society (the stock of 829 companies is listed on the Exchange), 651 reports, or 83 pct., indicated that the financial statements bore the certificates of independent accountants.

The accounts of a substantial number of the corporations, whose financial statements as stated in the Society's bulletin had been so certified, were examined by our firm.

The survey indicates that gradually but surely an unrestricted independent audit of the financial statements which are the subject matter of the annual report is becoming the prevailing practice, and this is best for all concerned,—investor, management, labor, and the financial world generally

At the Society's annual fall conference, which was held on October 31, Mr. John T. Flynn, former editor, and author of "Investments Gone Wrong", made an address on the subject of "Business Facts for the Public and the Certified Public Accountant". After the revolutionary changes of recent years resulting in great concentrations of funds in corporate organizations, Mr. Flynn concludes as follows:

There are two theories about all this. One is that our big business men ought to be let alone to run our affairs as they think best and not hampered by prying eyes. The other is that the men and women who supply the labor and the money for our great businesses are entitled to know what is going on behind those walls—at least to know what is being done with their money.

More and more business is coming under the guidance of the certified public accountant. We have thousands of laws to protect the public against exploitation. In a law-ridden land, we could repeal thousands of these laws tomorrow if we forced those who handle other people's money to reveal what they are doing with it. The greatest regulator of the public interest is publicity. The public cannot learn about these things themselves. They must trust to trained certified public accountants who know where to look and how to look for the things the investing public should know. Your profession will take on a new dignity when you come to realize that you are the eyes of the public—the eyes of the investors.

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